

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

1) VIDEO GAMING TECHNOLOGIES, INC., )  
 )  
 )  
 Plaintiff, )  
 )  
 )  
 v. ) Case No. 4:17-cv-00454-GKF-jfj  
 )  
 )  
 1) CASTLE HILL STUDIOS LLC ) **REDACTED VERSION**  
 (d/b/a CASTLE HILL GAMING); )  
 2) CASTLE HILL HOLDING LLC )  
 (d/b/a CASTLE HILL GAMING); and )  
 3) IRONWORKS DEVELOPMENT, LLC )  
 (d/b/a CASTLE HILL GAMING) )  
 )  
 )  
 Defendants. )

**PLAINTIFF'S REPLY IN SUPPORT OF ITS MOTION  
FOR LEAVE TO FILE SUPPLEMENTAL BRIEF**

CHG’s opposition (Dkt. 294) is notable for what it omits: CHG offers no argument that the statements it made in opposing VGT’s summary judgment motion in this Court are contrary to the statements made to the NIGC. Instead, CHG argues that VGT has not proven that the latter statements (made by the “Coalition for Fair Gaming”) are attributable to CHG and that VGT delayed in bringing the inconsistent positions to the Court’s attention. Both arguments lack merit.

Although CHG criticizes VGT’s evidence connecting CHG to the Coalition (Opp. at 2), CHG **never** disputes that CHG is behind the Coalition or that it was involved in drafting the statements submitted to the NIGC, including the statements contradicting those made by CHG to this Court in opposing VGT’s summary judgment motion. CHG offers no explanation for why—if it were not involved in the Coalition’s lobbying efforts—it produced a draft Coalition letter from CHG’s internal files, (ii) another draft Coalition letter refers to CHG by name, and

(iii) [REDACTED].<sup>1</sup> See Dkt. 290 at 6-7 (discussing evidence). Moreover, although CHG accuses VGT of “wildly speculat[ing]” that references to “Jason” in one of the draft letters refers to Jason Sprinkle, a CHG officer (Opp. at 2), CHG **never** denies the accuracy of this inference.<sup>2</sup> Finally, although CHG observes that the actual letter containing the inconsistent statement was not produced in discovery by CHG (Opp. at 2), that may say more about the thoroughness of CHG’s document collection efforts than whether CHG was involved in preparing the letter.

VGT also did not delay. VGT discovered the inconsistent statements in preparing its opposition to a motion CHG filed on January 17 challenging confidentiality designations with respect to testimony relating to NIGC compliance issues.<sup>3</sup> After filing the opposition on February 7, VGT reached out to CHG on February 11 to ask whether CHG would consent to the filing of a supplemental brief. After CHG declined to do so, VGT filed the present motion on February 12. VGT acted diligently to bring CHG’s inconsistent positions to the Court’s attention, and the Court should consider them when deciding VGT’s motion for summary judgment.

---

<sup>1</sup> Based on the information available on its website (<http://www.fairnessfight.com/>), the Coalition does not appear to serve any purpose other than lobbying the NIGC on issues relating to the minimum technical standards.

<sup>2</sup> The inference is supported by the inclusion on CHG’s privilege log of an entry for an email [REDACTED]. See Dkt. 290 at 7 n.8.

<sup>3</sup> Notwithstanding provisions in the Protective Order limiting use of information produced in this case to purposes relating to this case (Dkt. 55 ¶ 1(g)), CHG refuses to explain what it intends to do with the testimony it seeks to de-designate. See Dkt. 290 at 7-10; *see also* Dkt. 297 at 4 (in reply brief in support of motion to de-designate, continuing to refuse to explain what it intends to do with the information).

February 22, 2019

Respectfully submitted,

/s/ Gary M. Rubman

Graydon Dean Luthey, Jr., OBA No. 5568  
GABLE GOTWALS  
1100 ONEOK Plaza  
100 West Fifth Street  
Tulsa, OK 74103-4217  
Telephone: (918) 595-4821  
Facsimile: (918) 595-4990  
dluthey@gablelaw.com

Gary M. Rubman  
Peter A. Swanson  
Rebecca B. Dalton  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, D.C. 20001-4956  
Telephone: (202) 662-6000  
Facsimile: (202) 778-5465  
grubman@cov.com  
pswanson@cov.com  
rdalton@cov.com  
(admitted pro hac vice)

Neil K. Roman  
COVINGTON & BURLING LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
Telephone: (212) 841-1221  
Facsimile: (212) 841-1010  
nroman@cov.com  
(admitted pro hac vice)

*Counsel for Video Gaming Technologies, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 22, 2019, I caused the foregoing to be served on the following counsel for Defendants via ECF:

Robert C. Gill  
Thomas S. Schaufelberger  
Matthew J. Antonelli  
SAUL EWING ARNSTEIN & LEHR, LLP  
1919 Pennsylvania Avenue, NW, Suite 550  
Washington, D.C. 20006  
(202) 295-6605  
(202) 295-6705 (facsimile)  
[robert.gill@saul.com](mailto:robert.gill@saul.com)  
[tschauf@saul.com](mailto:tschauf@saul.com)  
[matt.antonelli@saul.com](mailto:matt.antonelli@saul.com)

Sherry H. Flax  
SAUL EWING ARNSTEIN & LEHR, LLP  
500 E. Pratt Street, Suite 900  
Baltimore, Maryland 21202  
(410) 332-8764  
(410) 332-8785 (facsimile)  
[sherry.flax@saul.com](mailto:sherry.flax@saul.com)

James C. Hodges, OBA 4254  
JAMES C. HODGES, PC  
2622 East 21st Street, Suite 4  
Tulsa, OK 74114  
Telephone: (918) 779-7078  
[JHodges@HodgesLC.Com](mailto:JHodges@HodgesLC.Com)

Duane H. Zobrist  
Jonathan S. Jacobs  
ZOBRIST LAW GROUP PLLC  
1900 Arlington Blvd. Suite B  
Charlottesville, VA 22903  
Telephone: (434) 658-6400  
[dzobrist@zoblaw.com](mailto:dzobrist@zoblaw.com)  
[jjacobs@zoblaw.com](mailto:jjacobs@zoblaw.com)

*Attorneys for Defendants*

/s/ Gary Rubman